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may be justly contrasted with Virginia in considering the effects of slavery, it is not quite right to declare that there were no slaves in the former state at the beginning of the century (p. 162). One is at liberty at least to doubt the assertion that "the Jeffersonian system of commercial warfare as a matter of fact brought about the repeal of the Orders in Council." Henry Adams says, "Every one knew that the danger, already almost a certainty, of an American war, chiefly caused the sudden and silent surrender, and that the ministry, like the people, shrank from facing the consequences of their own folly."

One who believes that since the adoption of the Constitution the American people have been legally a state, and that Calhoun and Jefferson Davis were technically as well as morally wrong, will regret to find that Professor Channing has added the weight of his name to the latter-day doctrine that Webster proclaimed a new theory of the Constitution and that Hayne defended the old, the one therefore legally correct. Regret will be deepened by finding that the author quotes with apparent approval the meaningless opinion of Mr. Lodge that at first the Union was looked upon as a mere "experiment" from which each state had the "right peaceably to withdraw." That the Union was at first an experiment, the success of which was uncertain, no one will deny; but that fact does not make the new state a confederation; the fact that a law may prove ineffective and be broken does not prove that it was not meant to be law after it has been established and obeyed. The trustworthiness of Mr. Lodge's statement on this matter might be seen by the fact that in the very paragraph from which the words above quoted are taken, he also says that "when the Virginia and Kentucky Resolutions appeared they were not opposed on constitutional grounds, but on those of expediency and of hostility to the *revolution* [!] which they were considered to embody." This is not only poor logic but false in fact. The fourth volume of Elliot's Debates contains the answers of the Federalist state legislatures repudiating the doctrines of the Resolutions on constitutional grounds.

In spite of a few trivial errors, and in spite of the fact that the author has, as I believe, gone wrong on the great fundamental principle underlying our constitutional history, the book is a result of sound scholarship and good sense, and is a valuable addition to the works on American history. It deserves to be widely read both in Europe and in America; and the reader may be sure that he can nowhere obtain a clearer, fairer narrative, or one fuller of valuable and well-chosen facts.

A. C. McLAUGHLIN.

The Life of Thomas Hutchinson, Royal Governor of Massachusetts Bay. By JAMES K. HOSMER. (Boston and New York: Houghton, Mifflin and Co. 1896. Pp. xxviii, 453.)

GOVERNOR HUTCHINSON'S title to commemoration in an extended biography rests solely upon his conduct of various public trusts in Massachu-

setts, and his merits as a historian. In both these respects, we think, recent writers unduly magnify his deserts. As a historian his pages shine only by contrast with the dry and promiscuous records of great and small events left by his predecessors, from Bradford and Winthrop to Prince, not excluding the *Magnalia*. In point of style, his simple, natural sentences are as pleasing and as free from solecisms as the average compositions of the best English scholars of his time. He is not, however, equally happy in his narrative. This fact is explained by his negligent use of materials. He tells us that for thirty years he had been collecting data for his history from all available sources. The papers he inherited from his father and grandfather must have been rich in details that could be used to great advantage in clearing many obscurities, which apparently he did not deem worthy of consideration. His access to other private collections, especially those of the Mathers, ought to have enabled him to elucidate some neglected points which now appear to be important; but from these he culled only superficially, alluding to them in a manner to tantalize rather than satisfy the reader.

His failure to avail himself of the records of the British government may be excused on account of the attendant difficulty and expense; but there was no excuse for his ignoring the newspapers and other contemporaneous literature or any of the records of the province. Yet the secretary's files and the journals of the representatives of the period during which he was in the public service, he seems to have consulted rarely, or not at all.

He appears to have adopted as the basis of his history of the province, the legislative journals of the governor and council, commonly known as the General Court Records. What the *News-Letter* was to Penhallow, and, indirectly, to his plagiarist, Niles, — what Bradford's history was to Morton, — these defective and inadequate volumes were to Hutchinson. The proofs of this are abundant; but the single instance of his silence with regard to the disastrous expedition under Admiral Vernon against Carthage must suffice here. By the great fire of 1747 both the legislative and executive records of the council covering that period were destroyed. Although at the time Hutchinson was a prominent member of the legislature, he makes not the slightest allusion to this event, which threw a pall over Massachusetts and Virginia by the loss of a large part of the quotas they contributed to Vernon's forces — a calamity which awakened the sympathies of Europe, was celebrated in elegiac strains in Thomson's *Seasons*, and is imperishably associated with the name of the home of Washington.

His carelessness is also shown in his inexcusable misrepresentation of important events within his official cognizance, as well as in his account of the administrations of Phips, Stoughton, Dudley, — in short, nearly all who preceded him in directing the executive affairs of the province.

One intimately familiar with the details of the actions and motives of public men, throughout the whole period which his history covers, gets the

impression that the author had a purpose ulterior to an impartial description of the progress of the people, which is his professed aim. The feeling is irresistible that the historian is more intent upon showing how the theories he entertained of the need of closer relations with, and dependence upon, the imperial government were regularly evolved, and upon magnifying his own efforts to establish them.

His silence upon matters indicative of the advance of civilization — the cultivation of the amenities of social intercourse and the growth of humane sentiments — is provoking. Between the date of the province charter and the end of his career a revolution had taken place in New England in every department of human industry, in the art of living, and in the means of intellectual culture, greater, perhaps, in proportion, than during the same number of years before or since. All the steps of this wonderful progress Hutchinson deems unworthy of especial notice. As a judge of courts of ecclesiastical, civil, and common-law jurisdiction, he could scarcely have failed to be aware of the process of development in each, yet he gives us no account of the agency by which great changes in all of them were effected; on the contrary, his incautious statements have, in some instances, misled those who, in studying our jurisprudence, have too implicitly relied upon his authority.

Yet these defects of the historian are overlooked by his apologists for no conceivable reason, unless it be that none of his contemporaries having had the same motive, or enjoying the leisure, the pecuniary means, or the command of resources required for the execution of such a work, his performance, however inferior in absolute merit, and however incommensurate to his opportunities, is without a rival.

As a politician and public officer, his views and achievements are extolled, and his faults are palliated with the partial zeal of the advocate, rather than the judicial candor of the historian. The opinion entertained of him by the patriots of the American Revolution is ascribed to fallacious views of the constitutional relations of England and her American colonies, and to personal resentment or partisan hostility. To sustain the latter accusation, his own questionable imputations of unworthy motives to his opponents are repeated with, at most, only equivocal apologies or feeble intimations of dissent; and, to vindicate the former charge, the tyrannical principles of the ministers of George III. are assumed to be in strict accordance with the British constitution.

English writers, adopting the traditions of the lawyers, still naturally cherish the ultra-Tory views professed by Blackstone and Lord Mansfield. Our historians of the new school deferentially concur in accepting these opinions as incontrovertible against the cardinal doctrines of the great lawyers and political philosophers who were the chief agents in preparing the English nation for the Revolution of 1688, and against the impassioned protests of later statesmen like Pitt and lawyers like Camden. Some of the more enterprising of this new school, in their zeal to excuse the Tories of the American Revolution, go farther than their British rivals, and hold

that the theories of the early advocates of civil liberty became obsolete upon the accomplishment of the English Revolution ; that that overturn, instead of being chiefly memorable as having exterminated the old superstition of the

“ Right divine of kings to govern wrong,”

changed the fundamental law, and gave to Parliament an ascendancy which had not previously been accorded to it, thus making it essentially despotic. To this, however, no English writer of acknowledged authority has as yet assented. On the contrary, the general voice of England applauds Macaulay's echo of the opinion, “ of all the greatest lawyers, of Holt, of Treby, of Maynard and Somers,” that “ the whole English law, substantive and adjective, was exactly the same after the Revolution as before it.”

The shifting issues of the American Revolution were finally reduced to this single question of the absolute supremacy of Parliament ; the Tories affirming it, the patriots denying it.

Now, in this issue, we shall assume — since the limits of this review preclude extended argument — that all the law and the facts are not against the patriots ; and that those of us who adhere to the American doctrine, even if we choose to waive the privilege of pleading in bar the judgment which our fathers obtained by the arbitrament of arms — the *ultima ratio regum* — in their war against unconstitutional acts of Parliament, need never fear of being worsted in an encounter with the ablest champions of Toryism, if we are wise enough not to discard the patriots' panoply.

The comprehension of the full import of the doctrine that there were possible proceedings of Parliament that were *ultra vires* was the result of long deliberation and experiment, during which its adherents sometimes hesitated and were often inconsistent. But, dispassionately considered, it is difficult to see how it involves a paradox or derogates from the lawful supremacy of Parliament, or impairs the sovereignty of the crown or of the nation.

The theory of collateral and mutual rights between the mother country and her colonies derived from this doctrine was treated by Hutchinson as monstrous and the promulgation of it as seditious. It is fair to suppose that he failed to perceive its practicability, but this seems to have been the result of an inveterate prejudice founded on his contempt for democratic ideas. He met the arguments of the patriotic party by the sophistical counter-arguments of the high Tories. By a line of reasoning equally plausible, Filmer had learnedly demonstrated the absolute authority of Charles II. not only to rule and levy taxes, but to make and execute the laws. On the abstract question of the omnipotence of Parliament he was willing to admit that the inherent rights of an Englishman would remain in him, notwithstanding an act of Parliament to the contrary ; but he qualified this admission by absurdly affirming that the exercise of the inherent right must be suspended during the continuation of the act.

Before the interference of Parliament in the affairs of the province had been resented as unconstitutional, the power of the prerogative which, in the days of the colony, had gradually grown more and more oppressive, until it culminated in the usurpation of Andros, was reasserted, and had long been a source of friction between the crown and the province.

In all the conflicts that occurred with the Privy Council and with Parliament, Hutchinson's sympathies were with the home government, and he acted as if he believed that the functions of a governor and the duty of a loyal subject were principally to admonish the people and restrain their inconsiderateness and seditious tendencies, and to favor the purpose at Whitehall and Westminster to coerce the colonies into proper subjection as mere tributaries of the realm.

He was born a conservative. In early manhood he courted the society of the young scions of the nobility among the officers of the army and navy stationed at Boston, and he informs us that as a child the sufferings and death of Charles I. made him weep. This sentimental tenderness in a descendant of ancestors who, he well knew, had endured or witnessed the cruel persecutions of the Puritans in the reign of that unfeeling monarch, indicates a natural proclivity in harmony with his subsequent career.

For all his complaisance, he received from his official superiors the empty meed of their approval for having done his duty. This did not satisfy his ambition. He craved higher distinction if not greater reward. He understood something of the arts of the courtier. Like Joseph Dudley, between whom and him the parallel is, in many respects, striking, he let it be understood in England that he was not opposed to an abridgment, in the province, "of what are called English liberties." He resisted zealously, though sometimes covertly, every suggestion for relaxing the rigor of imperial control and every protest against British interference, and he was astute in finding some ground for sneering at, or disparaging, every aspirant to larger liberty. He was superserviceable as an informer both against individuals and public measures deemed by him unfavorable to the designs of the Privy Council, or at variance with the declared will of Parliament. He never remonstrated against, if he did not suggest, those instructions and orders in council strictly forbidding the governor to assent to any bill to encourage those trades and manufactures in the province which were in any degree prejudicial to the trades and manufactures of the kingdom.

He visibly adhered to the Congregational denomination in which he was brought up and for which, evidently, he had a strong partiality on account of the simpler rites and primitive discipline which his Puritan ancestry had helped to establish. But his tolerant inclination to the Church of England, shown in his unconcern at the schemes of the Bishop of London to establish the Episcopal hierarchy in America, might have ended in outward conformity to a Low Church ritual, had not prudence restrained him from rashly committing an act by which he would have forfeited all hope of retaining the good-will and political influence of the

powerful body of Dissenters in England — a sacrifice not to be willingly suffered unless with the more than equivalent assurance of royal favor and support.

Such are some of the characteristics of the man whose vaulting ambition, having carried him to the highest attainable civil positions, at length "o'erleaped itself."

That he had good qualities, socially, does not so much concern the biographer as do the services which he rendered to the public. Most men are well thought of by their friends and neighbors, and no refined mind but must be often charmed at the exhibition of pure and simple tastes in men of high station, and touched by their demonstrations of parental tenderness or conjugal love and fidelity. These attractive traits are not singular in any age. They were possessed by hundreds of fameless fathers and husbands in and about Boston in Hutchinson's day, and before and since.

The destruction of Hutchinson's house and his papers by the mob was as infamous an act of lawlessness as was ever perpetrated in Boston, and in the minds of all decent men will always provoke indignation and excite pity and regret. But impartial observers of the manner in which popular impulses find expression will remember that such acts of violence by men of English stock are usually either the blind resentments of the actually oppressed or are incited by fear of the loss of liberties dearer than life and property. In England almost every great reform since the Conquest has been brought about by just such means. Until the reform acts furnished a safety-valve by extending the privilege of electors, the mob was more worthy to be deemed the "fourth estate" of the kingdom than the press. This Hutchinson must have known, and ought to have considered in forecasting the consequences of an abridgment of popular liberties.

No lover of peace and good order can sincerely lament that the contemplation of Blackstone's picture of the beauties of the English system had not deluded our fathers into adopting and perpetuating it here, or regret that in England the freedom of speech and of the press, and the extension of the elective franchise and of eligibility to Parliament, which, directly or indirectly, are attributable to the American Revolution, have purged it of its constituent element of violence upon which its admirers are reluctant to dwell.

Mr. Hosmer joins the ranks of Hutchinson's defenders with the frank avowal that his fame "deserves a *rescue* after the long obloquy," and that he has found it a grateful task to attempt for him a "*Rettung*" — adopting the word which Lessing applied to his projected essays for retrieving the reputation "of great men of the past to whom harsh measure has been dealt out." No one who has compared Mr. Hosmer's *Life of Samuel Adams* with the present volume will be disappointed to find that, as between the two, he is more in sympathy with Hutchinson. This is a necessary consequence of his concurrence in the new-school views from which we dissent. Hence, too, we are not surprised to find in the present book

indications that the author has not escaped the infection which, Macaulay declares, biographers "are peculiarly exposed to—the *Lues Boswelliana*, or disease of admiration."

In his zeal to give the color of merit to the cause in which Hutchinson so signally failed and so grievously suffered, he likens the Tory refugees to the exiled Huguenots, and speaks of "that one error"—"their mistaken and unfortunate choice of sides in that last crisis"—as the extent of the offence which "has cancelled in the minds of their countrymen all their excellence."

He finds sanction for Hutchinson's aristocratic ideas in an oligarchic apothegm by Governor Winthrop, and in Matthew Arnold's doctrine of "the remnant"—both of which he cites with no word of disapproval, and fortifies with his own declaration that "many, possibly an increasing number, in our own day will say that" Hutchinson "was nearer right than his enemies." He leaves with us the impression that in his opinion the political system which our fathers bequeathed to us, and to which he applies Fisher Ames's comparison of a raft—always partly under water but never sinking—is not without besetting perils. "Many," he lugubriously tells us, "who until now have floated upon the raft confidently begin to feel that it must be forsaken."

He seizes upon Herbert Spencer's declarations "that his faith in democracy is gone, and that we are on the high road to military despotism" as a good excuse to "ordinary men" for doubting the stability of "institutions heretofore cherished and implicitly trusted." Having sounded this demoralizing note, he concludes that it is wise to "make the best of" the situation, and seeing we are "on the raft for good and all," to assume an air of confidence solely in deference to the gratuitous and somewhat conflicting theory that, in "an Anglo-Saxon community, the people can and ought to take care of themselves."

He strives to hold the scales of judgment in equipoise, but without a clear perception of the essence of the injustice that he would avoid. What he assumes as the basis of an explanation is not always according to the fact. His mistaken parallel of the constitutional objection to the exaction by Parliament of duties of impost from the colonies to the controversies in our day concerning the expediency of tariff or free trade does not extenuate the offence of the advocacy of parliamentary supremacy. It serves only to obscure his meaning to those of his readers who are aware of the acts—never complained of and rarely evaded—which were annually passed by the provincial legislature for placing, upon imported goods, duties to be collected by our own officers of the customs. His charge, therefore, of wholesale "smuggling" by the New England merchants—an offence which he charitably endeavors to extenuate by dividing the responsibility with the conniving collectors of the customs—needs to be qualified, since, if he means to limit it to the evasion of acts of Parliament, he is begging the question: he should not close his eyes to the fact that, if the denial of the constitutionality of those acts was valid, they were void;

and that even a custom-house oath prescribed by a void statute was then, as now, neither legally nor morally binding.

The defects we have thus summarized are attributable to the same fault of which we have accused Hutchinson — failure to make use of the materials which the public records afford. But in this respect Mr. Hosmer's shortcoming is not exceptional. It is a common fault, and one which finds easy condonation in historical circles where, as a rule, speed in book-making wins more applause than thoroughness or exactness. Had he studied the charter and the records of the province as industriously as he has the compilations of other authors, he would have avoided such a slip as the error of limiting the governor's right of veto in the election of councillors. The same precaution would have prevented his confounding the bills of public credit with the issues of the Land Bank. Neither would he have regarded with favor the action of Parliament in suppressing the latter. The retroactive declaration by which the Bubble Act was used for that purpose was an abuse of power which Mr. Andrew McFarland Davis, who has given us the benefit of his exhaustive examination of the whole subject, condemns as unreasonable and tyrannical. At all events, there is no doubt, as he asserts, that it led men to question whether they could abide the exercise of any such power — thus fostering a spirit of resistance which culminated in the Revolution.

However his pessimistic views may invite dissent, there are other features of Mr. Hosmer's work which entitle him to unqualified praise. Chief among these is the fidelity and thoroughness with which he has explored all the materials left by Hutchinson, and the respectful consideration which he has given to the labors of others in or about the same field, including the essays wherein writers of another new school of history have endeavored to trace to remote antiquity ideas and institutions which are claimed to have attained fruition if not perfection in our Anglo-American republic. Nor is he less to be commended for his habit of never consciously concealing any fact that might be availed of to the disadvantage of the subject of his biography. Although he may incline to a construction either favorable or unfavorable of any act or sentiment, he never omits to present it honestly for the consideration of the reader.

These are admirable qualities, but they are not sufficient to give his book the value of an authority. When we consider how much Mr. Hosmer has done in the line of biography and how skilfully he has used the materials at hand, it not only excites our respect for his ability and our wonder at his industry, but our regret that he has not been encouraged to drink at the fountain-head, regardless of the time required, and with absolute exemption from all distracting cares.

ABNER C. GOODELL, JR.